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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TOMAS ANDREASON

Appeal 2009-009070
Application 09/898,480
Technology Center 2600

Decided: April 28, 2010

Before JOHN C. MARTIN, MAHSHID D. SAADAT, and
CARL W. WHITEHEAD, JR., *Administrative Patent Judges*.

WHITEHEAD, JR., *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134 from the Examiner's rejection of claims 1-5 and 21-25.¹ App. Br. 2. We have jurisdiction under 35 U.S.C. § 6(b) (2002). We reverse.

STATEMENT OF THE CASE

Appellant invented an arrangement and a method in which a subscriber communicates with a stationary telephony terminal via the subscriber's mobile radio telephone that is connected to a mobile radio telephony network, thus enabling the subscriber to have access to user data stored on the stationary telephony terminal even when the subscriber is utilizing the mobile radio telephone.²

Claim 1, which further illustrates the invention, follows:

1. An arrangement in a telephony system comprising:

at least one mobile radio telephone for being radio connected to a mobile radio telephony network in the telephony system via a radio link; and

at least one stationary telephony terminal,

wherein the stationary telephony terminal and the mobile radio telephone each have a short range transceiver for intercommunication via a short range wireless communication link;

wherein the stationary terminal or the mobile radio telephone is arranged to establish a speech channel over the short range wireless communication link; and

wherein the stationary telephony terminal is arranged to communicate speech over the mobile radio telephony network via the mobile radio

¹ Claims 7, 9-16, 18, and 20 have been allowed by the Examiner. *See Ans.* 3. Appellant's Brief incorrectly states that claims 6, 8, 17, and 19-24 have been cancelled (App. Br. 2). Claims 21-24 have not been canceled and are included in the rejected claims.

² *See* App. Br. 2-3.

telephone with another telephone including to transmit and receive speech signals over the speech channel established over the short range wireless communication link.

The Rejection

The Examiner relies upon the following prior art references as evidence of unpatentability:

Henon	US 6,999,769 B1	Feb. 14, 2006
Tada	US 7,020,467 B2	Mar. 28, 2006

Claims 1-5 and 21-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Henon and Tada (Ans. 5-12).

Rather than repeat the arguments of Appellant or the Examiner, we refer to the Appeal Brief (filed October 10, 2008), the Reply Brief (filed February 20, 2009), and the Answer (mailed December 22, 2008) for their respective details. In this decision, we have considered only those arguments actually made by Appellant. Arguments which Appellant could have made but did not make in the Brief have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2008).

Obviousness rejection over Henon and Tada

Appellant argues that the independent claims require a call to be conducted by a stationary wireline phone through a mobile phone to a called device, contrary to Henon's transference of the call from a mobile phone to a stationary wireline phone to conserve the mobile phone's battery and thus removing the mobile phone from the call altogether. *See* App. Br. 11. The Examiner maintains that the combination of Henon and Tada discloses or suggests a radio telephone network wherein a wireless telephone is

connected to a wired or stationary phone in the same manner as the claimed invention. *See Ans.* 14-15.

ISSUE

Does the combination of Henon and Tada disclose or suggest an arrangement wherein a stationary wireline phone communicates speech over a mobile radio telephony network via a mobile telephone?

FINDINGS OF FACT

1. Figure 1 of Henon is reproduced below:

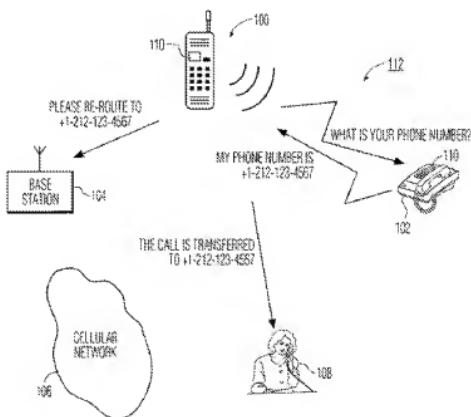


Figure 1 discloses how an in-process telephone call is transferred between a wireless telephone device 100 and a wireline telephone device 102 (col. 2, ll. 59-62).

2. Figure 2 of Henon is reproduced below:

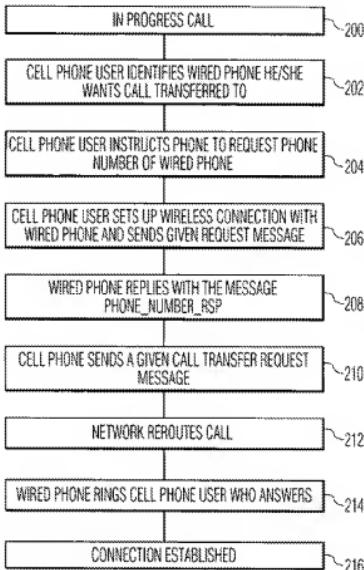


Figure 2 discloses a flowchart describing the in-process call transfer technique (col. 2, ll. 40-41).

3. Henon discloses that when the mobile phone's battery is almost exhausted or for other reasons, the mobile phone requests the wired telephone's phone number and routes the wired telephone's number to the cellular network. The cellular network then transfers the call from the mobile telephone to the wired telephone (col. 4, ll. 24-31).
4. Henon discloses that the mobile radio handset includes a transceiver for conventional cellular communications as well as short-range radio (or infrared transceiver 110) for communicating with a similarly provisioned wired telephone (col. 4, ll. 19-23).

PRINCIPLES OF LAW

The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art. *See In re Kahn*, 441 F.3d 977, 987-88 (Fed. Cir. 2006); *In re Young*, 927 F.2d 588, 591 (Fed. Cir. 1991); *In re Keller*, 642 F.2d 413, 425 (CCPA 1981). The Examiner can satisfy this test by showing “some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (quoting *Kahn*, 441 F.3d at 988).

ANALYSIS

The Examiner’s finding is similar to Appellant’s wherein they both agree that Henon employs a short range communication link to establish a connection between a mobile telephone and a stationary wireline phone. *See App. Br. 8-9; Ans. 14-15; FF 4*. However, Appellant argues that Henon’s mobile network transfers a call via a wireline network in the conventional way from the mobile phone to the stationary wireline phone, and when the user answers the call on the stationary phone, the call on the mobile phone is terminated or hung up. *See App. Br. 11*. Appellant further argues that the claimed invention distinguishes over Henon because the claimed invention relies upon the mobile telephone to maintain the connection between the stationary wireline phone and the called device or terminal, and without the mobile telephone, the connection is broken or the call is dropped. *See id.*

The Examiner concedes that Henon does not specifically disclose a speech channel; however, Henon discloses a short range communication link

and therefore it would be obvious, in view of Tada's teachings of a speech channel within a short range communications link, to modify Henon by incorporating speech within its short range communication link (Ans. 16-17).

We find Appellant's argument to be persuasive and we will not sustain the Examiner's rejection of claims 1-5 and 21-25. We agree with Appellant that Henon transfers the call from the mobile phone to the stationary wireline phone. *See* FF 1-2. Further, Henon discloses that once the call is transferred from the mobile phone to the stationary wireline phone, the mobile phone is no longer needed to maintain the call to the called device. *See* FF 2-3. Modifying Henon as the Examiner has proposed by incorporating a speech channel does not prevent the rerouting or transference of the call from the mobile phone to the stationary wireline phone. Once Henon transfers or reroutes the call, the mobile phone is no longer needed to communicate speech or to maintain the call. *See* FF 1-3. Both independent claims 1 and 21 require the stationary telephony terminal to communicate speech over the mobile radio telephony network via the mobile radio telephone with another telephone, including receiving speech signals over the short range wireless communication link. Henon and Tada do not disclose or suggest such an arrangement.

CONCLUSION

The combination of Henon and Tada fails to disclose an arrangement wherein a stationary wireline phone communicates speech over a mobile radio telephony network via a mobile telephone.

Appeal 2009-009070
Application 09/898,480

ORDER

We reverse the Examiner's decision rejecting claims 1-5 and 21-25.

REVERSED

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